

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

March 26, 2009

Charles R. Fulbruge III
Clerk

No. 08-40778

Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOSE CRISTOBAL PENA-ALEMAN, also known as Jose Pena

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:08-CR-217-ALL

Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent Jose Cristobal Pena-Aleman has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Pena-Aleman has not filed a response. Our independent review of the record and counsel's brief discloses no nonfrivolous issue for appeal. Accordingly, counsel's motion for leave to

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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withdraw is GRANTED, counsel is excused from further responsibilities herein,
and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.